

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	
PETER RAFAEL DZIBINSKI	)	Case No. 1:20-cr-193-CMH
DEBBINS,	)	
a/k/a "Ikar Lesnikov,"	)	
	)	
Defendant.	)	

GOVERNMENT'S MOTION TO SEAL AND SUPPORTING MEMORANDUM  
PURSUANT TO LOCAL CRIMINAL RULE 49(E)

The United States, through undersigned counsel, submits this Motion to Seal pursuant to Local Rule of Court 49(E) of the Local Criminal Rules for the United States District Court for the Eastern District of Virginia, and asks for an Order sealing the following exhibits to the Government's Position on Sentencing, which will be filed with the Clerk's Office, or through the Classified Information Security Officer (CISO), on May 7, 2021: Exhibit A, Exhibit D, and Exhibit E, and unredacted versions of Exhibit F and Exhibit G (collectively, the "Protected Exhibits"). The Protected Exhibits will be filed under seal pursuant to Local Rule 49(E), which provides that the filings are to be treated as sealed pending the outcome of this motion to seal.

The United States seeks to file the Protected Exhibits under seal because they contain information that should not be publicly available. Specifically, the declaration filed as Exhibit A contains personal information that the defendant provided to Russian intelligence agents about his former Special Forces team members, details about the positions that the defendant applied for in the U.S. intelligence community, identifying information about a potential co-conspirator, and other nonpublic details about the nature, type, and sources of the government's evidence in

this case. Meanwhile, the declarations marked as Exhibits D and E, which have been filed with the assistance of the CISO, contain classified information. The redacted portion of Exhibit F, a letter from one of the Special Forces operators whose name the defendant disclosed, contains identifying information about the operator, the disclosure of which could put him or her at risk of retribution. And the redacted portion of Exhibit G contains the telephone number for Major General John Brennan. Given the nature of this offense—which involves an espionage conspiracy with a sophisticated foreign intelligence agency—the government submits that this information should not be in the public domain because its public disclosure could jeopardize ongoing investigations, put individuals’ safety at risk, or cause potential damage to U.S. national security.

This Court has the inherent power to seal materials submitted to it. *See Nixon v. Warner Commc’ns Inc.*, 435 U.S. 589, 598 (1978) (“It is uncontested, however, that the right to inspect and copy judicial records is not absolute. Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes.”); *In re Sealed Affidavit(s) to Search Warrants Executed on February 14, 1979*, 600 F.2d 1256, 1257 (9th Cir. 1979) (recognizing that “the courts have inherent power, as an incident of their constitutional function, to control papers filed with the courts within certain constitutional and other limitations”). “The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.” *In re Knight Publ’g Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

The United States has considered alternatives less drastic than sealing. It has filed redacted versions of Exhibit F and Exhibit G on the public docket. Given the amount of sensitive information in Exhibit A, Exhibit D, and Exhibit E, the United States has found that no

alternatives less drastic than sealing would suffice to protect its interests. The Protected Exhibits should remain sealed until further Order of the Court.

A proposed sealing order is submitted herewith for the convenience of the Court.

Respectfully submitted,

Raj Parekh  
Acting United States Attorney

By: \_\_\_\_\_ /s/\_\_\_\_\_

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/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of May, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system.

/s/  
Thomas W. Traxler  
Assistant United States Attorney